

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-v-	:	21cr317 (DLC)
	:	
ELLIOT SMERLING,	:	<u>ORDER</u>
	:	
Defendant.	:	
-----X	:	

DENISE COTE, District Judge:

On May 28, 2021, defense counsel informed the Court that the defendant prefers that the June 3 initial conference in this matter occur via videoconference as opposed to in person.

Accordingly, it is hereby

ORDERED that the proceeding shall proceed as scheduled on **June 3, 2021 at 2:00 PM** using the CourtCall platform. Defense counsel is reminded that they will be given an opportunity to speak with the defendant by telephone for fifteen minutes before the proceeding begins (i.e., at **1:45 p.m.**).

To optimize the quality of the video feed, only the Court, the defendant, defense counsel, and counsel for the Government will appear by video for the proceeding; all others will participate by telephone. Due to the limited capacity of the CourtCall system, only one counsel per party may participate. Co-counsel, members of the press, and the public may access the

audio feed of the conference by calling **855-268-7844** and using access code **32091812#** and **PIN 9921299#**.

In advance of the proceeding, Chambers will email the parties with further information on how to access the proceeding. Those participating by video will be provided a link to be pasted into their browser. **The link is non-transferrable and can be used by only one person**; further, it should be used **only** at the time of the proceeding because using it earlier could result in disruptions to other proceedings.

To optimize use of the CourtCall technology, all those participating by video should:

1. Use the most recent version of Firefox, Chrome, or Safari as the web browser. Do **not** use Internet Explorer.
2. Use hard-wired internet or WiFi. If using WiFi, the device should be positioned as close to the Wi-Fi router as possible to ensure a strong signal. (Weak signals may cause delays or dropped feeds.)
3. Minimize the number of others using the same WiFi router during the proceeding.

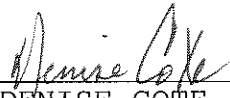
Further, all participants must identify themselves every time they speak, spell any proper names for the court reporter, and take care not to interrupt or speak over one another. Finally, all of those accessing the proceeding – whether in listen-only mode or otherwise – are reminded that recording or rebroadcasting of the proceeding is prohibited by law.

If CourtCall does not work well enough and the Court decides to transition to its teleconference line, counsel should call **888-363-4749** and use access code **4324948#**. (Members of the press and public may call the same number, but will not be permitted to speak during the proceeding.) In that event, and in accordance with the Court's Emergency Individual Rules and Practices in Light of COVID-19, available at [https://www.nysd.uscourts.gov/sites/default/files/practice documents/DLC%20Cote%20COVID-19%20Emergency%20Practices%20-%20May%2013%2C%202020.pdf](https://www.nysd.uscourts.gov/sites/default/files/practice_documents/DLC%20Cote%20COVID-19%20Emergency%20Practices%20-%20May%2013%2C%202020.pdf), counsel should adhere to the following rules and guidelines during the hearing:

1. Each party should designate a single lawyer to speak on its behalf (including when noting the appearances of other counsel on the telephone).
2. Counsel should use a landline whenever possible, should use a headset instead of a speakerphone, and must mute themselves whenever they are not speaking to eliminate background noise. In addition, counsel should not use voice-activated systems that do not allow the user to know when someone else is trying to speak at the same time.
3. To facilitate an orderly teleconference and the creation of an accurate transcript, counsel are required to identify themselves every time they speak. Counsel should spell any proper names for the court reporter. Counsel should also take special care not to interrupt or speak over one another.

4. If there is a beep or chime indicating that a new caller has joined while counsel is speaking, counsel should pause to allow the Court to ascertain the identity of the new participant and confirm that the court reporter has not been dropped from the call.

Dated: New York, New York
June 1, 2021



DENISE COTE
United States District Judge